

Appln. No. 09/820,339  
Amd. dated December 8, 2005  
Reply to Office Action of June 8, 2005

#### REMARKS

The Office Action and the cited and applied references have been carefully studied. Claim 12 is allowed and claims 14, 15, 25, 27, 31, 40 and 41 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. Claims 8, 9, 12, 14-18, 25, 27, 30, 31, and 36-41 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

The examiner states that this application fails to comply with the requirements of 37 CFR 1.821-1.825 because SEQ ID NO:2 is not the same as disclosed in Figure 1 at residue 33. Applicants regret the error in the sequence listing at residue 33 of SEQ ID NO:2. Residue 33 is Val as correctly disclosed in Figure 1. This is further supported by nucleotide sequence of SEQ ID NO:1, which encodes the amino acid sequence of SEQ ID NO:2, where nucleotides 97-99 is the codon "gtg" encoding Val at residue 33, not Ala. Appropriate correction is made to the sequence listing.

Applicants have added into the present specification a substitute paper copy Sequence Listing section according to 37 C.F.R. §1.821(c). Furthermore, attached hereto is a 3 1/2" disk containing the "Sequence Listing" in computer readable form in accordance with 37 C.F.R. §1.821(e).

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The following statement is provided to meet the requirements of 37 C.F.R. §1.825(a) and 1.825(b).

I hereby state, in accordance with 37 C.F.R. §1.825(a), that the amendments included in the substitute sheets of the sequence listing are believed to be supported in the application as filed and that the substitute sheets of the sequence listing are not believed to include new matter.

I hereby further state, in accordance with 37 C.F.R. §1.825(b), that the attached copy of the computer readable form is the same as the attached substitute paper copy of the sequence listing.

Claims 25, 27, 28, 32, 36 and 40 have been objected to because "tolerogen" is misspelled as "toleragen". Appropriate correction is made, thereby obviating this objection.

Claim 19 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is obviated by the cancellation of rejected claim 19.

Claims 8, 16-19, 30 and 36-39 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite and incomplete. The examiner's helpful suggestion is adopted, thereby obviating this rejection.

Claims 8, 9, 16-19, 30 and 36-39 have been rejected under 35 U.S.C. §102(b) as being anticipated by Schoepfer et al. (1988). This rejection is respectfully traversed.

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As discussed above, the correct residue 33 in SEQ ID NO:2 is Val. Accordingly, residue 33 of SEQ ID NO:2 is now corrected to be Val as appears in Schoepfer's amino acid sequence. Schoepfer's amino acid sequence of the native human acetylcholine receptor  $\alpha$ -subunit (hAChR $\alpha$ ) cannot anticipate the presently claimed invention. In particular, H $\alpha$ 1-210 (residue 1-210 of SEQ ID NO:2) fused to an additional polypeptide, as recited in claim 8 (iv) and 36 cannot be met by Schoepfer's full length hAChR $\alpha$  because Schoepfer's hAChR $\alpha$  subunit would necessarily assume its native conformation, contrary to what is required by the recitation in the claims that "said fused polypeptide does not assume the native conformation of the  $\alpha$  subunit of the human acetylcholine receptor".

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 8, 9, 16-19, 28, 30 and 32-39 have been rejected under 35 U.S.C. §102(b) as being anticipated by Talib et al. (1991). This rejection is obviated by the cancellation of claims 19, 28, and 32-35 without prejudice and the amendment to claims 8 and 36. The presently amended claims do not read on Talib's H $\alpha$ 1-210. Claims 8 and 36 specifically exclude H $\alpha$ 1-210 as being the polypeptide tolerogen. Claim 9 is also not anticipated by Talib's H $\alpha$ 1-210 because the polypeptide encoded by the DNA

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sequences of (i), (ii) or (iii) is either Hø1-121, Hø122-210 or Hø1-205.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

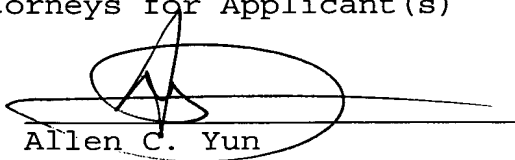
In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

In the event that further amendments are still deemed necessary by the examiner to place the claims in condition for allowance, the examiner is respectfully urged for contact the undersigned to resolve any such outstanding issues by telephone.

Respectfully submitted,

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